

AMENDED IN ASSEMBLY AUGUST 31, 2007

AMENDED IN ASSEMBLY JULY 3, 2007

AMENDED IN SENATE FEBRUARY 27, 2007

SENATE BILL

No. 145

Introduced by Senator Corbett

January 25, 2007

An act to amend Sections 70321, 70374, and 70402 of, *and to add Section 70356.5 to*, the Government Code, relating to court facilities, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 145, as amended, Corbett. Court facilities.

(1) Existing law requires the Judicial Council, in consultation with the superior court of each county and the county, to enter into agreements concerning the transfer of responsibility for court facilities from that county to the Judicial Council. Transfer of responsibility may occur not earlier than July 1, 2004, and not later than June 30, 2007. *Existing law requires counties to remit to the state, for deposit in the Court Facilities Trust Fund, county facilities payments composed of the costs of various items related to court facility operation and maintenance.*

This bill would extend the deadline for the transfer of responsibility for court facilities to December 31, 2008. The bill would require that any transfer agreement that ~~has not been~~ is executed ~~by~~ *on or after January 1, 2008, and on or before June 30, 2008*, contain a requirement that the county pay an additional amount annually, to be calculated pursuant to a specified method. The bill would provide that the county is not required to make the additional payment if the county, *before*

January 1, 2008, has submitted a proposed county facilities payment in connection with court facilities. The bill would further require that any transfer agreement that is executed on and after July 1, 2008, contain a requirement that the county facilities payment be calculated pursuant to the greater of 2 specified methods. The bill would make related, conforming changes.

(2) Existing law creates the State Court Facilities Construction Fund, which is financed by certain state court construction penalty assessments, parking surcharges, and filing fee surcharges on civil actions, as specified. Existing law provides that the money in this fund may only be for specified purposes, which include the acquisition, rehabilitation, construction, and financing of court facilities, as defined.

This bill would correct an erroneous cross-reference in these provisions.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 70321 of the Government Code is
2 amended to read:
3 70321. (a) The Judicial Council, in consultation with the
4 superior court of each county and the county, shall enter into
5 agreements concerning the transfer of responsibility for court
6 facilities from that county to the Judicial Council. The agreements
7 shall be negotiated between July 1, 2003, and December 31, 2008,
8 inclusive. Transfer of responsibility may occur not earlier than
9 July 1, 2004, and not later than December 31, 2008. On or before
10 July 1, 2003, each county shall designate those persons who shall
11 negotiate the agreements on behalf of the county and shall give
12 the Judicial Council the names of those persons. The name of a
13 person designated by a county to negotiate on its behalf may be
14 changed by the county at any time by providing written notice to
15 the Judicial Council.
16 (b) (1) Notwithstanding any other provision of law, and except
17 as provided in ~~subdivision (c)~~ *paragraph (3)*, any transfer
18 agreement that ~~has not been executed by~~ *is executed on or after*
19 *January 1, 2008, and on or before June 30, 2008,* shall also contain

1 a requirement that the county pay, in addition to the county
2 facilities payment established pursuant to Article 5 (commencing
3 with Section 70351), an annual and continuing amount from the
4 date of transfer to be calculated as described in paragraph (2).

5 (2) The amount required by paragraph (1) shall be calculated
6 by multiplying the county facilities payment by the amount of the
7 ~~annual percentage increase adjustment described in the most recent~~
8 ~~price letter prior to the date of transfer issued by the Department~~
9 ~~of Finance as part of the workload budget as defined in Section~~
10 ~~43308.5: United States Bureau of Economic Analysis local implicit~~
11 ~~price deflator for California.~~

12 (e)

13 (3) A county shall not pay the increase required by *this*
14 subdivision ~~(b)~~ if significant progress toward completing a transfer
15 agreement has been achieved *before January 1, 2008*, as evidenced
16 by the county's submission of a proposed county facilities payment
17 pursuant to Section 70363.

18 (c) *Notwithstanding any other provision of law, a transfer*
19 *agreement that is executed on or after July 1, 2008, shall contain*
20 *either a requirement for a county facilities payment calculated*
21 *pursuant to Section 70356.5 or a requirement for a county facilities*
22 *payment calculated pursuant to subdivision (b), whichever amount*
23 *is greater.*

24 ~~SEC. 2. Section 70374 of the Government Code is amended~~
25 ~~to read:~~

26 ~~70374. (a) The Judicial Council shall annually recommend to~~
27 ~~the Governor and the Legislature the amount proposed to be spent~~
28 ~~for projects paid for with money in the State Court Facilities~~
29 ~~Construction Fund. The use of the appropriated money is subject~~
30 ~~to subdivision (f) of Section 70391.~~

31 ~~(b) Acquisition and construction of court facilities shall be~~
32 ~~subject to the State Building Construction Act of 1955~~
33 ~~(commencing with Section 15800) and the Property Acquisition~~
34 ~~Law (commencing with Section 15850), except that, (1)~~
35 ~~notwithstanding any other provision of law, the Administrative~~
36 ~~Office of the Courts shall serve as an implementing agency upon~~
37 ~~approval of the Department of Finance, and (2) the provisions of~~
38 ~~subdivision (c) shall prevail. Acquisition and construction of~~
39 ~~facilities are not subject to the provisions of the Public Contract~~
40 ~~Code, but shall be subject to facilities contracting policies and~~

1 procedures adopted by the Judicial Council after consultation and
2 review by the Department of Finance.

3 ~~(e) Money in the State Court Facilities Construction Fund shall~~
4 ~~only be used for either of the following:~~

5 ~~(1) To acquire, rehabilitate, construct, or finance court facilities;~~
6 ~~as defined by subdivision (d) of Section 70301.~~

7 ~~(2) To rehabilitate one or more existing court facilities in~~
8 ~~conjunction with the construction, acquisition, or financing of one~~
9 ~~or more new court facilities.~~

10 ~~(d) Twenty-five percent of all money collected for the State~~
11 ~~Court Facilities Construction Fund from any county shall be~~
12 ~~designated for implementation of trial court projects in that county.~~
13 ~~The Judicial Council shall determine the local projects after~~
14 ~~consulting with the trial court in that county and based on the~~
15 ~~locally approved trial court facilities master plan for that county.~~

16 ~~(e) The following provisions shall prevail over provisions of~~
17 ~~the State Building Construction Act of 1955 (Part 10.6~~
18 ~~(commencing with Section 15800) of Division 3 of Title 2) in~~
19 ~~regard to buildings subject to this section.~~

20 ~~(1) The Administrative Office of the Courts shall be responsible~~
21 ~~for the operation, including, but not limited to, the maintenance~~
22 ~~and repair, of all court facilities whose title is held by the state.~~
23 ~~Notwithstanding Section 15807, the operation of buildings under~~
24 ~~this section shall be the responsibility of the Judicial Council.~~

25 ~~(2) Notwithstanding Section 15808.1, the Judicial Council shall~~
26 ~~have the responsibility for determining whether a building under~~
27 ~~this act shall be located within or outside of an existing public~~
28 ~~transit corridor.~~

29 ~~(3) The buildings under this section are subject to Section~~
30 ~~15814.12 concerning cogeneration and alternative energy sources~~
31 ~~at the request of, or with the consent of, the Judicial Council. Any~~
32 ~~building acquired by the state pursuant to this section on or before~~
33 ~~July 1, 2007, is not subject to subdivision (b) of Section 15814.12~~
34 ~~concerning acquiring of cogeneration or alternative energy~~
35 ~~equipment if the building when acquired, already had cogeneration~~
36 ~~or alternative energy equipment. Section 15814.17 only applies to~~
37 ~~buildings to which the Judicial Council has given its consent under~~
38 ~~subdivision (a) of Section 15814.12.~~

39 *SEC. 2. Section 70356.5 is added to the Government Code, to*
40 *read:*

1 70356.5. (a) *A county facilities payment calculated under this*
2 *section, pursuant to the requirements of subdivision (c) of Section*
3 *70321, shall be composed of amounts for the following items that*
4 *are based on the actual expenditures made by the county for facility*
5 *operation and maintenance for fiscal year 2006–07 and that are*
6 *adjusted by the multiplier described in subdivision (b):*

7 (1) *Maintenance and repair, including, but not limited to,*
8 *maintenance and repair of the building and its components, utility*
9 *systems, security equipment, and interior and exterior lighting.*

10 (2) *Purchase, installation, modernization, and maintenance of*
11 *major building systems not of an ongoing nature, including, but*
12 *not limited to, plumbing, HVAC (heating, ventilation, and*
13 *air-conditioning), electrical, and vertical transportation.*

14 (3) *A special repair.*

15 (4) *Landscaping and grounds maintenance services for court*
16 *facilities.*

17 (5) *Maintenance of parking spaces or garages dedicated to the*
18 *court or for jurors.*

19 (6) *County facility management and administrative costs directly*
20 *or indirectly associated with trial court facilities, including, but*
21 *not limited to, management, supervision, planning, design,*
22 *department administration, payroll, finance, procurement, and*
23 *program management.*

24 (7) *The cost of utilities, including, but not limited to, natural*
25 *gas, heating oil, electricity, water, sewage, and garbage. Utility*
26 *costs shall be included without regard to whether payment of the*
27 *costs was made by the county, the court, or another entity except*
28 *that the amount of specific utility costs may not be included in the*
29 *county facilities payment if all of the following conditions are*
30 *satisfied:*

31 (A) *A lease expressly provides that the utilities are to be paid*
32 *by the lessor.*

33 (B) *There is no payment by the lessee for the utilities, except as*
34 *part of the lease payment.*

35 (C) *The lease payment is included in the county facilities*
36 *payment.*

37 (8) *The cost of insurance.*

38 (A) *The amount of insurance shall not include the cost of any*
39 *insurance required by any agreement involving bonded*
40 *indebtedness on the facility to the extent that the cost of insurance*

1 *is greater than the cost of commercial insurance coverage on the*
2 *building.*

3 *(B) The determination of the insurance costs may consider the*
4 *costs of commercial insurance coverage for a fair and reasonable*
5 *level of insurance and the costs of self-insurance. The amount of*
6 *the insurance costs shall be subject to negotiation between the*
7 *Judicial Council and the county.*

8 *(C) To the extent the responsibility for grounds is transferred,*
9 *the insurance costs for court facilities shall include, but not be*
10 *limited to, the cost of liability insurance relating to the grounds.*

11 *(9) Court facilities rental or leasing costs calculated pursuant*
12 *to Section 70359.*

13 *(b) The amount required by subdivision (a) shall be calculated*
14 *by multiplying the county facilities payment by the amount of the*
15 *United State Bureau of Economic Analysis local implicit price*
16 *deflator for California.*

17 *SEC. 3. Section 70374 of the Government Code, as amended*
18 *by Chapter 176 of the Statutes of 2007, is amended to read:*

19 *70374. (a) The Judicial Council shall annually recommend to*
20 *the Governor and the Legislature the amount proposed to be spent*
21 *for projects paid for with money in the State Court Facilities*
22 *Construction Fund. The use of the appropriated money is subject*
23 *to subdivision (l) of Section 70391.*

24 *(b) Acquisition and construction of court facilities shall be*
25 *subject to the State Building Construction Act of 1955*
26 *(commencing with Section 15800) and the Property Acquisition*
27 *Law (commencing with Section 15850), except that, (1)*
28 *notwithstanding any other provision of law, the Administrative*
29 *Office of the Courts shall serve as an implementing agency upon*
30 *approval of the Department of Finance, and (2) the provisions of*
31 *subdivision (e) shall prevail. Acquisition and construction of*
32 *facilities are not subject to the provisions of the Public Contract*
33 *Code, but shall be subject to facilities contracting policies and*
34 *procedures adopted by the Judicial Council after consultation and*
35 *review by the Department of Finance.*

36 *(c) Money in the State Court Facilities Construction Fund shall*
37 *only be used for either of the following:*

38 *(1) To acquire, rehabilitate, construct, or finance court facilities,*
39 *as defined by subdivision (e) of Section 70302 (d) of Section 70301.*

1 (2) To rehabilitate one or more existing court facilities in
2 conjunction with the construction, acquisition, or financing of one
3 or more new court facilities.

4 (d) Except as provided in Section 70374.2, 25 percent of all
5 money collected for the State Court Facilities Construction Fund
6 from any county shall be designated for implementation of trial
7 court projects in that county. The Judicial Council shall determine
8 the local projects after consulting with the trial court in that county
9 and based on the locally approved trial court facilities master plan
10 for that county.

11 (e) The following provisions shall prevail over provisions of
12 the State Building Construction Act of 1955 (Part 10.6
13 (commencing with Section 15800) of Division 3 of Title 2) in
14 regard to buildings subject to this section.

15 (1) The Administrative Office of the Courts shall be responsible
16 for the operation, including, but not limited to, the maintenance
17 and repair, of all court facilities whose title is held by the state.
18 Notwithstanding Section 15807, the operation of buildings under
19 this section shall be the responsibility of the Judicial Council.

20 (2) Notwithstanding Section 15808.1, the Judicial Council shall
21 have the responsibility for determining whether a building under
22 this act shall be located within or outside of an existing public
23 transit corridor.

24 (3) The buildings under this section are subject to Section
25 15814.12 concerning cogeneration and alternative energy sources
26 at the request of, or with the consent of, the Judicial Council. Any
27 building acquired by the state pursuant to this section on or before
28 July 1, 2007, is not subject to subdivision (b) of Section 15814.12
29 concerning acquiring of cogeneration or alternative energy
30 equipment if the building when acquired, already had cogeneration
31 or alternative energy equipment. Section 15814.17 only applies to
32 buildings to which the Judicial Council has given its consent under
33 subdivision (a) of Section 15814.12.

34 ~~SEC. 3.~~

35 *SEC. 4.* Section 70402 of the Government Code is amended
36 to read:

37 70402. (a) Any amount in a county's courthouse construction
38 fund established by Section 76100, a fund established by Section
39 70622 in the County of Riverside, a fund established by Section
40 70624 in the County of San Bernardino, or a fund established by

1 Section 70625 in the City and County of San Francisco, shall be
2 transferred to the State Court Facilities Construction Fund at the
3 later of the following dates:

4 (1) The date of the last transfer of responsibility for court
5 facilities from the county to the Judicial Council or December 31,
6 2008, whichever is earlier.

7 (2) The date of the final payment of the bonded indebtedness
8 for any court facility that is paid from that fund is retired.

9 (b) If the responsibility for one or more facilities does not
10 transfer, the county's courthouse construction fund shall retain
11 that portion of the total money in the fund as the square footage
12 of the facilities that do not transfer bears to the total square footage
13 of court facilities in that county.

14 SEC. 4. This act is an urgency statute necessary for the
15 immediate preservation of the public peace, health, or safety within
16 the meaning of Article IV of the Constitution and shall go into
17 immediate effect. The facts constituting the necessity are:

18 The current deadline for the transfer of responsibility for court
19 facilities to the state pursuant to Chapter 1082 of the Statutes of
20 2002 will not be met. In order to allow continued negotiation and
21 the completion of that transfer, it is necessary that the deadline of
22 June 30, 2007, be extended to December 31, 2008.